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Attorneys for Defendant APPLE INC.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**OAKLAND DIVISION**

EPIC GAMES, INC.

Plaintiff, Counter-defendant  
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF MARK A. PERRY IN  
SUPPORT OF APPLE INC.'S  
ADMINISTRATIVE MOTION TO SEAL**

The Honorable Thomas S. Hixson

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California and a member of the Bar  
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple  
4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary and confidential  
5 information based on my personal experience representing Apple. I have personal knowledge of the facts  
6 stated below and, if called as a witness, would testify competently thereto. I submit this declaration in  
7 support of Apple’s Administrative Motion to Seal (the “Motion”).<sup>1</sup>

9 2. I am aware that the law of this Circuit allows information to be filed under seal for good  
10 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where  
11 documents include a company’s trade secrets, internal codenames, confidential research and  
12 development, personally identifiable information, or other commercially sensitive information. I  
13 understand that this Court has broad latitude to prevent the public disclosure of these categories of  
14 commercially sensitive information, among other categories.

16 3. Apple operates in an intensely competitive environment. Apple has serious and legitimate  
17 concerns that competitors will be quick to capitalize on any release of Apple’s highly sensitive  
18 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect  
19 the confidentiality of its information.

21 4. Apple has carefully reviewed the exhibit to Apple’s Objection to certain of the Special  
22 Masters’ privilege determinations issued on April 4, 2025, regarding Apple’s production of re-reviewed  
23 and privileged documents (“Objection”), which was filed under section 4 of the Joint Stipulation and  
24

25  
26 <sup>1</sup> Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See, e.g.,*  
27 *In re Apple Secs. Litig.*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*, No. 17-cv-  
28 00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*, No. 10-cv-  
02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv- 00282-  
EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple  
respectfully requests that it be permitted to file a further declaration supporting filing under seal.

Order Approving Privilege Re-Review Protocol (the “Protocol”), and now proposes to partially seal information therein that, if disclosed, could harm Apple’s competitive business interests and would reveal personally identifiable information.

5. Apple seeks to seal this information because the privilege log is required to be filed under the terms of the Protocol but contains sensitive, non-public information regarding Apple’s internal codenames, which Apple intends to keep confidential. Public disclosure would reveal Apple’s internal business decision-making, which could be used by competitors to gain an unfair competitive advantage over Apple. It also contains personally identifiable information in the form of email addresses of Apple employees, which Apple intends to keep confidential.

6. Apple has narrowly tailored its sealing request as to maximize the public’s access to court documents without jeopardizing Apple’s business interests. The remainder of the privilege log exhibit remains unredacted.

7. Below is a chart detailing the portions of the privilege log exhibit sealable for the reasons explained herein, as well as in Apple’s Motion.

Portion of Document Sought to Be Sealed	Document Title	Reason to Seal
Highlighted information in the “Subject” and “Original Name” columns of row 1 of the privilege log.	Exhibit A to Objections (Privilege Log Entries)	Reflects non-public Apple project codenames
Highlighted information in the “From/To/Cc” columns of row 1 of the privilege log.	Exhibit A to Objections (Privilege Log Entries)	Reflects personally identifiable information

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 10th day of April 2025, in Washington, D.C.

1 Dated: April 10, 2025

Respectfully submitted,

2 By: /s/ Mark A. Perry  
3 Mark A. Perry